

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DONALD JACKSON,

Petitioner,

v.

STATE OF NEVADA, et al.,

Respondents.

Case No. 3:15-cv-00154-MMD-VPC

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner.

On March 16, 2015, the Court entered an order requiring petitioner to pay the \$5.00 filing fee for this action within thirty days. (Dkt. no. 3). The thirty-day period has long since expired, and petitioner has not paid the filing fee or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “in the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal of a case.” *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9<sup>th</sup> Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See, e.g. *Pagtalunan v. Galaza*, 291 P.3d 639, 643 (9<sup>th</sup> Cir. 2002) (dismissal of habeas corpus petition with prejudice for failure to prosecute action and failure to comply with a court order); *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9<sup>th</sup> Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9<sup>th</sup> Cir. 1992) (dismissal for

1 failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856  
 2 F.2d 1439, 1440-41 (9<sup>th</sup> Cir. 1988) (dismissal for failure to comply with local rule  
 3 requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal*  
 4 *Service*, 833 F.2d 128, 130 (9<sup>th</sup> Cir. 1987) (dismissal for failure to comply with court  
 5 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9<sup>th</sup> Cir. 1986) (dismissal for failure  
 6 to lack of prosecution and failure to comply with local rules).

7 In determining whether to dismiss an action for lack of prosecution, failure to  
 8 obey a court order, or failure to comply with local rules, the court must consider several  
 9 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need  
 10 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
 11 favoring disposition of cases on their merits; and (5) the availability of less drastic  
 12 alternatives. *Pagtalunan*, 291 F.3d at 642; *Thompson*, 782 F.2d at 831; *Henderson*, 779  
 13 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46  
 14 F.3d at 53.

15 The Court finds that the first two factors, the public's interest in expeditiously  
 16 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
 17 dismissal. The third factor, risk of prejudice to respondents, also weighs in favor of  
 18 dismissal, since a presumption of injury arises from the occurrence of unreasonable  
 19 delay in filing a pleading ordered by the court or prosecuting an action. See *Anderson v.*  
 20 *Air West*, 542 F.2d 522, 524 (9<sup>th</sup> Cir. 1976). The fourth factor – public policy favoring  
 21 disposition of cases on their merits – is greatly outweighed by the factors in favor of  
 22 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
 23 the court's order will result in dismissal satisfies the "consideration of alternatives"  
 24 requirement. *Pagtalunan*, 291 F.3d at 643; *Ferdik v. Bonzelet*, 963 F.2d at 1262;  
 25 *Malone*, 833 at 132-33; *Henderson*, 779 F.2d at 1424. The Court's order requiring  
 26 petitioner to pay the filing fee within thirty days expressly stated: "Failure to comply with  
 27 this order may result in the dismissal of this action." (Dkt. no. 3, at 2). Thus, petitioner

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1 had adequate warning that dismissal would result from noncompliance with the Court's  
2 order.

3 It is therefore ordered that this action is dismissed without prejudice based on  
4 petitioner's failure to pay the filing fee in compliance with this Court's order of March 16,  
5 2015.

6 It is further ordered that the Clerk of Court shall enter judgment accordingly.

7 DATED THIS 27<sup>th</sup> day of July 2015.

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11 MIRANDA M. DU  
12 UNITED STATES DISTRICT JUDGE  
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